

Panaji, 3rd February, 2011 (Magha 14, 1932)

SERIES II No. 45

# OFFICIAL GAZETTE

## GOVERNMENT OF GOA



PUBLISHED BY AUTHORITY

*Note:- There are two Extraordinary issues to the Official Gazette, Series II No. 44 dated 27-1-2011 as follows:-*

1. Extraordinary dated 1-2-2011 from pages 1111 to 1112 regarding Notification from Department of Elections (Goa State Election Commission).
2. Extraordinary (No. 2) dated 2-2-2011 from pages 1113 to 1114 regarding Notification from Department of Elections (Goa State Election Commission).

### GOVERNMENT OF GOA

#### Department of Civil Supplies and Consumer Affairs

##### Notification

Ref. No. DCS/S/Price Rise/08-271/10-11/302

Government is pleased to constitute the Committee to control the price rise under the Government Intervention for Control of Price Rise Scheme, 2008 comprising of the following members:-

1. Hon'ble Chief Minister.
2. Hon'ble Minister for Civil Supplies.
3. Shri Manohar Parrikar, Hon'ble MLA.
4. Shri Damodar Naik, Hon'ble MLA.
5. Shri Pandurang alias Deepak Dhavlikar, Hon'ble MLA.

In addition the Assistant Director of Civil Supplies shall be the representative of the Director, Civil Supplies.

This Notification shall come into force with immediate effect.

By order and in the name of the Governor of Goa.

G. P. Pilarnekar, Director of Civil Supplies & Consumer Affairs & ex officio Joint Secretary.

Panaji, 31st January, 2011.

#### Department of Education, Art & Culture

##### Directorate of Education

##### Order

No. DE/AE/148/BAL BHAVAN/Part I/07-08/776

In supersession of Order No. DE/AE/148/BAL BHAVAN/Part I/07-08/896 dated 14-01-2008, Government is pleased to reconstitute the Bal Bhavan Board, Panaji with immediate effect as below:-

- |  |                     |
|--|---------------------|
| 1. Smt. Vijayadevi Rane  | — Chairman.         |
| 2. Smt. Luisa Fernandes  | — Vice-Chairman.    |
| 3. Secretary (Education)   | — Member.           |
| 4. Director of School Education                                      | — Member.           |
| 5. Director of Sports & Youth Affairs                                | — Member.           |
| 6. Under Secretary (Finance), Budget Expenditure                     | — Treasurer.        |
| 7. Secretary, Kala Academy   | — Member.           |
| 8. 4 Members to be nominated by the Chairman of the Bal Bhavan Board | — Member.           |
| 12. 4 Members to be co-opted by the Board/Management                 | — Member.           |
| 16. Director of Bal Bhavan   | — Member Secretary. |

The tenure of the newly constituted Bal Bhavan Board shall be for a period of 3 years w.e.f. 8-12-2010.

The Board shall meet at least three times in a year. The non-official members shall be treated on par with Group A Officers of the State of Goa and they will be entitled to TA/DA as per rules when

they attend the meeting. The expenditure on TA/DA will be met from the funds of Bal Bhavan Board.

By order and in the name of the Governor of Goa.

Dr. *Celsa Pinto*, Director of Education and ex officio Joint Secretary.

Panaji, 27th January, 2011.

Directorate of Technical Education  
College Section

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**Order**

No. 16/35/87/EDN/6/263

Ref: Letter No. DA/PA-III/U-V/2007-08/2300 dated 23-02-2009 from Dy. Director of Accounts, Panaji.

In supersession of Office Order No. 16/35/87/EDN/6/2684 dated 30-12-2008 ex-post facto sanction of the Government is hereby accorded for grant of extension of Extraordinary Leave to Dr. George Easaw, Lecturer in Mechanical Engineering from 09-10-2008 to 08-10-2010 for two years in terms of the Goa State Civil Service (grant of leave to seek employment in India or abroad), Rules, 2002 notified by the Government vide Notification No. 2/5/95-PER dated 02-01-2003.

Also, in terms of Notification No. 2/5/95-PER dated 23-09-2008, sanction of the Government is accorded to curtail this EOL from the period of 09-10-2008, 08-10-2010 to the period of 09-10-2008, 30-10-2008.

By order and in the name of the Governor of Goa.

*Vivek B. Kamat*, Director of Technical Education and ex officio Additional Secretary.

Porvorim, 25th January, 2011.

Department of Inland Waterways  
Captain of Ports

—  
**Order**

No. A 11052/Est/Part/383

On the recommendation of the Goa Public Service Commission, vide their letter No. COM/I/5/13(1)/2010/288 dated 07-12-2010, Government is pleased to appoint Shri Octavio Antony

Rodrigues as Marine Engineer and Ship Surveyor, (Group 'A' Gazetted) in the Pay Band of PB—3 ` 15,600-39,100+6,600/- in the Dy. Captain of Ports Office, Mormugao-Harbour, under the Captain of Ports Department, Panaji, with immediate effect. He will also be entitled for all other allowances admissible to the employees of this State Government from time to time. His initial pay stands fixed at ` 18,750+6,600/-.

1. He has been medically found fit for the said post.
2. He has not come to any adverse remarks as per the record of the concerned Police Station.
3. He shall be on probation for a period of two years.

By order and in the name of the Governor of Goa.

Capt. *James Braganza*, Captain of Ports & ex officio Joint Secretary.

Panaji, 28th January, 2011.

Department of Labour

—  
**Notification**

No. 28/1/2011-LAB

The following award passed by the Labour Court-II, at Panaji-Goa on 02-11-2010 in reference No. IT/27/06 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*Vasanti H. Parvatkar*, Under Secretary (Labour).  
Porvorim, 18th January, 2011.

THE LABOUR COURT-II  
GOVERNMENT OF GOA  
AT PANAJI

(Before Shri Suresh N. Narulkar,  
Hon'ble Presiding Officer)

Case No. Ref. IT/27/06

Shri Arun B. Devvari,  
Borim,  
Ponda-Goa.  
V/s

... Workman/Party I

M/s. Shubh Engineering Ltd.,  
(I.F.B) 1st Floor,  
Manjunath Building,  
Panaji-Goa.

... Employer/Party II

Party I/Workman is represented by Adv. Suhas Naik.  
Party II/Employer is represented by Adv. P. Chawdikar.

Panaji, dated: 02-11-2010

#### AWARD

1. In exercise of the powers conferred by Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa, by order dated 29-06-2006, bearing No. 28/06/2006-LAB/404, referred the following dispute for adjudication to the Labour Court-II of Goa.

“(1) Whether the action of the management of M/s. Shubh Engineering Ltd., Panaji, in terminating the services, of Shri Arun B. Devari, Assistant Service Engineer, with effect from 28-09-1999 is legal and justified?

(2) If not, to what relief the Workman is entitled to?”

2. On receipt of the reference, a case was registered under No. IT/27/07 and registered A/D notice was issued to the Parties. In pursuance to the said notice, the Parties put in their appearance. The Workman/Party I (for short ‘Workman’), filed his statement of claim on 06-07-2007 at Exhibit-4. The facts of the case in brief as pleaded by the Workman are that he was employed with the Employer/Party II (for short “Employer”) as a “Senior Service Technician” w. e. f. 22-9-1990. He stated that he was thereafter promoted as “Assistant Service Engineer”. He stated that though he was designated as Assistant Service Engineer, the nature of duties performed by him were that of “Workman” as defined u/s 2(s) of I. D. Act, 1947. He stated that he had continuously worked for the employer till 7-9-2009. He stated that on 8-9-1999 when he resumed for his work at the Head Office of the Employer Company situated at Panaji-Goa, the management of the Employer provoked him and obtained his signature on one undated resignation letter addressed to the branch Head Office, Panaji-Goa. He stated that he never intended to resign from the services of the employer company voluntarily. He stated that he was forced and compelled to sign the said resignation letter. He stated that after realizing that his resignation has been under threat, duress and coercion, he immediately wrote a letter to the Managing

Director of the Employer Company on 15-9-1999 informing him that their Branch Head Office at Panaji-Goa provoked him and forcibly obtained his signature on the resignation letter which he never intended to resign voluntarily and requested to allow him to continue in employment by withdrawing his said resignation letter. He stated that the Employer instead of allowing him to resume on his duties w.e.f. 15-9-1999, he was relieved from his services by their letter dated 29-9-1999. He submitted that the relieving letter dated 28-9-1999 issued to him by the employer is an afterthought defence and the same is illegal, unjustified and bad in law. He stated that he thereafter approached the employer on several occasions requesting to provide his employment, however the management of the Employer Company failed to do so. He stated that he therefore raised an Industrial Dispute before the Commissioner, Labour and Employment, Panaji-Goa, in respect of his illegal termination of his services demanding immediate reinstatement with full back wages and continuity in services vide his letter dated 30-9-1999. He stated that the said dispute ended in failure due to adamant and rigid stand, taken by the Employer. He therefore prayed that the relieving order dated 28-9-1999 issued by the employer to him be held as illegal, unjustful and bad in law and he be reinstated back in service with full back wages and continuity in services alongwith all consequential benefits.

3. The Employer controverted the claim of the Party I by filing their reply on 6-9-2007 at Exhibit-5. The Employer by way of its preliminary objection submitted that the present reference is not maintainable and bad in law as the Party I is not a “Workman” as defined under the I. D. Act, 1947. The Employer submitted that the Party I has voluntarily resigned from their services and therefore the question of termination of services does not arise. The Employer submitted that having voluntarily accepted all the dues, the Party I has stopped from raising any claim.

The Employer stated that it is a Company, registered under the Companies Act, 1956 and is engaged in servicing home appliances for IFB Industries and has its branches in different parts of India. The Employer stated that it has employed altogether eight Workmen at their branch office, out of which four Workmen are employed on permanent basis and the rest are engaged for casual work on daily wages. The Employer however admitted that the Party I was appointed

as a "Senior Engineer" vide their Appointment Letter dated 27-9-1990 and subsequently promoted as "Assistant Service Engineer" vide their Appointment Letter dated 20-7-1996. The Employer stated that the Party I was performing supervisory duty and was enjoying managerial power at their branch office located at Panaji-Goa. The Employer stated that the Party I had occupied a position of command and took independent decision and was authorized to act independently in certain matters without the sanction of the supervisor. The Employer stated that the Party I had eight Workmen working under him. The Employer stated that the Party I was distributing work among his subordinates and was exercising control over them. The Employer stated that the Party I was empowered to issue instructions to his subordinates. The Employer stated that the Party I indented and requisitioned material from the stores, advised disciplinary actions over his subordinates, dealt with leave and LTC applications in the matter of his subordinates, requisitioned manpower, sanctioned leave of the employees subordinate to him. The Employer stated that the Party I was recommending appointments and was evaluating performance of employees under his supervisory and managerial control. The Employer stated that the Party I was corresponding on behalf of them in the matter of auditing, indenting and purchase of material and also corresponding with the franchisee. The Employer stated that the Party I was authorized signatory on behalf of the principle IFB Industries Ltd. and also signed and issued cheques and made payments on their behalf. The Employer submitted that the main and principle duties of the Party I were of supervisory and managerial in nature. The Employer stated that the Party I had submitted his resignation on 8-9-1998 voluntarily and he was relieved on the same day on the oral instruction from the head office. The Employer stated that their head office recorded the acceptance of resignation and statement of accounts which was forwarded to the branch office on 17-9-1999 and a cheque for said amount towards the legal dues alongwith the letter of acceptance of resignation together with remarks of the head office was handed over to the Party I on 28-9-1999. The Employer stated that the Party I has also accepted the said cheque and encashed the same. The Employer denied that the Party I had submitted his resignation under duress, force, threat, coercion and obtained his signature on the said resignation letter addressed to the branch head office, Panaji-Goa. The Employer stated that the said resignation of the Party I was

forwarded to the head office on 11-9-1999. The Employer Company denied the overall case of the Party I and prayed for rejection of the present reference.

4. Thereafter the Party I filed his rejoinder on 8-10-2007 at Exhibit-6 to the written statement filed by the Employer. The Party I, by way of his rejoinder confirms and reiterates all the submissions and averments made by him in his statement of claim filed in the present proceedings to be true and correct and denies all the statements and averments made by the Employer in their written statement filed in the present proceedings which are contrary and inconsistent to the statements and averments made by him. He stated that he was never given any promotion, but his designation was changed as "Assistant Service Engineer" from "Senior Service Technician". He was performing the same duties as performed by him as a Senior Service Technician. He stated that at no point of time he took any independent decisions and was authorized to act independently without the sanction of the superior and denied that he had performed supervisory or managerial duties. He reiterated that the resignation letter dated 8-9-1999 was obtained by provoking him under force, threat, duress and coercion.

5. Based on the pleadings filed by the respective parties, this Hon'ble Court framed the following issues on the 30-11-2007 at Exhibit 7.

- 1) Whether the Party I is a "Workman" as defined u/s 2(s) of the I. D. Act, 1947?
- 2) Does Party I prove that on 8-9-99 the Party II obtained from him resignation letter under force, threat, duress and coercion?
- 3) Does Party I prove that he withdrew resignation letter before it was accepted by Party II?
- 4) Does Party I prove that the Party II terminated his services w.e.f. 28-9-99?
- 5) Whether termination of services of Party I by Party II is legal and justified?
- 6) To what relief the Party I is entitled?
- 7) What award?

My answers to the aforesaid issues are as under:

- (a) Issue No. 1: In the negative
- (b) Issue No. 2: Does not arise
- (c) Issue No. 3: Does not arise
- (d) Issue No. 4: Does not arise
- (e) Issue No. 5: Does not arise
- (f) Issue Nos. 6: & 7 As per final order.



## REASONS

7. *Issue No. 1:* The Employer Company controverted the present dispute raised by the Party I on the ground that the Party I is not a "Workman" as defined u/s 2(s) of I. D. Act, 1947. This Hon'ble Court therefore framed the existing issue No. 1. Since the present dispute has been raised by the Party I, the onus to prove that he is a "Workman" as defined u/s 2(s) of the I. D. Act, 1947 is on him.

I have heard the arguments of Ld. Advocates appearing for the respective parties.

8. Ld. Adv. Suhas Naik appearing for the Party I during the course of his oral arguments submitted that the Party I was initially appointed as "Senior Service Technician" w.e.f. 22-09-1990 and was thereafter promoted as "Assistant Service Engineer" vide his Appointment Letter dated 20-07-1996. He submitted that as an "Assistant Service Engineer", the Party I used to collect and attend all the complaints and was repairing the washing machines of the various customers of the Employer. He submitted that the said primary duties performed by the Party I were manual and technical in nature and hence he is a "Workman" as defined u/s 2(s) of the I. D. Act, 1947. In support of his oral contention, he relied upon four decisions of Hon'ble supreme Court of India (1) in the case of **Anand Bazar Patrika v/s Workman, reported in 1969 (18) FLR 1862** (2) In the case of **D. P. Maheshwari v/s Delhi Admn. and ors., reported in 1983 4 SCC 293** (3) In the case of **Management of May and Bakers India Ltd. v/s their Workman, reported in AIR 1967 SC 4878** (4) In the case of **National Engineering (India) Ltd. v/s Kishan Bageria and ors., reported in 1988 (56) FLR 148** and (5) **Ravinder Singh State of Madhya Pradesh and ors. reported in 1995 (2) SCR 519**.

9. On the contrary, Ld. Adv. P. Chawdikar, during the course of his oral arguments, submitted that the Party I has raised the present Industrial dispute pertaining to his alleged illegal termination of services w.e.f. 28-09-1999 by claiming to be a "Workman". He submitted that the onus to prove that the Party I is a "Workman" as defined u/s 2(s) of the I. D. Act, 1947 is on him. He submitted that the Party I however failed to plead his primary and basic nature of duties performed by him at the time of alleged termination of his services. He submitted that the Party I in his oral evidence stated that he was repairing the washing machines of the various customers of the Employer. He submitted that the Party I, however failed to produce on record any documentary evidence in

support of his oral evidence inspite of the fact that the Employer has denied that the Party I was repairing the washing machines during the cross-examination of the Party I. He submitted that the Party I, in his cross-examination clearly admitted that he was authorized to sign certain cheques as an authorized signatory on behalf of the Employer and accordingly produced on record ten cheques at (Exhibit.- E/3-Colly) signed by the Party I on behalf of the Employer. He submitted that the Party I in his cross-examination also admitted that he used to approve the leave as well as LTA applications of certain workers employed with the Employer. He submitted that the Party I in his cross-examination admitted that he used to write Annual Performance Appraisal of the workers of the Employer and also used to approve the indent for spare parts which were required for repairing the machinery. He submitted that besides the aforesaid duties admitted by the Party I, he used to distribute the work among his subordinates and exercise control over them, he advised disciplinary action over his subordinates, requisitioned manpower, recommended appointments, evaluated performance of employees, corresponded on behalf of the Employer Company, auditing, indenting and purchase of material and also corresponded with the franchisee. He therefore submitted that the aforesaid duties performed by the Party I at the relevant time were supervisory as well as managerial in nature. He therefore submitted that Party I is not a "Workman" as defined u/s 2(s) of the I.D. Act and relied upon the following decisions.

1. Standard Chartered Bank v/s Vandana Joshi and anr., 2010 (I) CLR, Pg. 163 (Bom. H.C.)/ /2010 (II)LLJ Pg. 409 (Bom.H.C.).
2. Vijay Dattatray Kale v/s Pieco Electronics & Electricals & Anr. 2009 (I) CLR Pg. 867 (Bom. H.C.).
3. Somnath T. Galande v/s P.O. IInd Labour Court, Pune and Anr. 2008 (I) CLR Pg. 656 (Bom. H.C.).
4. V. K. Sharma v/s Government of NTC of Delhi and Anr. 2008 (I) CLR pg. 971. (Del. H.C.).
5. Twenty First Century Printers Ltd. v/s K. P. Abraham and Anr., 2008 (III) CLR pg. 616 (Bom H.C.).
6. Award of Industrial Tribunal in the matter of Nagesh Priolkar in reference No. IT/74/92 dated 03-08-2007.
7. Sitaram Vishnu Shirodkar v/s the Administrator, Government of Goa (Bom. H.C. Panaji Bench).

8. Union Carbide (I) Ltd. v/s D. Samuel and Ors. 1998 (80) FLR pg. 684.

9. Premier Automobiles Ltd. v/s Premier Automobiles Employees union 1988 (57) FLR pg. 649.

I have carefully considered the various legal submissions made by the Ld. Advocates for the respective parties. I have also carefully perused the entire records of the case.

10. The term "Workman" has been defined u/s 2(s) of the I. D. Act, 1947 and it means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be expressed or implied and for the purposes of any proceedings under this act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with or a consequence of that dispute or dismissal, discharge or retrenchment has laid to that dispute, but does not include any such person—

- (1) who is subject to the AIR Force Act, 1950 (45 of 1950) or the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or;
- (2) who is employed in the police service or as an Officer or other employer of a prison or;
- (3) who is employed mainly in a managerial or administrative capacity;
- (4) who, being employed in a supervisory capacity draws wages exceeding Rs. 1,600/- per mensem or exercises either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

11. The Hon'ble Supreme Court of India in its case of D. P. Maheshwari v/s Delhi Administration and Ors. reported in 1983 (4) SCC 293 has held that "We would further like to add that the circumstances that the appellant was not discharging supervisory functions was itself a very strong circumstance from which it could be legitimately inferred that he was discharging duties of clerical nature. If the Labour Court has drawn such an inference, it would have been well justified in doing so". The law laid down by the Hon'ble Apex Court in its aforesaid case is no longer valid in view of the law laid down by the Hon'ble Apex Court in its recent cases of A. R. Adhyantaya and Sonapat Co-operative Sugar Mills Pvt. Ltd.

12. In the case of **Anand Bazar Patrika v/s its Workman reported in (1970) 8 SCC 248** the Hon'ble Supreme Court of India has held that *"the question, whether a person is employed in a supervisory capacity or on clerical work, in our opinion, depends upon whether the main and principle duties carried out by him are those of a supervisory character, or of a nature carried out by a clerk. If a person is mainly doing supervisory work, but, incidentally or for a fraction of the time also does some clerical work, it would have to be held that he is employed in a supervisory capacity and conversely, if the main work done is of clerical nature, the mere fact that some supervisory duties are also carried out incidentally or as a small fraction of the work done by him will not convert his employment as a clerk into one in supervisory capacity"*.

13. The Hon'ble Supreme Court of India in its case of **Management of May and Bakers v/s their Workman reported in AIR 1967 SC 878** has held that *"the absence of supervisory duties and the fact that he has to act under the directions of superior officer do not necessarily make his duties clerical or manual. The Hon'ble Apex Court has further observed that if manual or clerical work is only a small part of the duties of the person concerned and is incidental to his main work which is not manual or clerical, then such a person would not be a Workman"*.

14. In the case of **National Engineering (India) Ltd. v/s Kishan Bhageria and ors. reported in 1988 (56) FLR 148** the Hon'ble Apex Court has held that *"one must look into the main work and that must be found out from the main duties. A supervisor was one who could bind the Company to take some kind of decision on behalf of the company. One who was reporting merely as to the affairs of the company and making assessment for the purpose of reporting, was not a supervisory"*.

15. In the case of **Standard Chartered Bank v/s Vandana Joshi and another reported in 2010 ICLR 163** wherein the Hon'ble High Court at Bombay has held that *"the fact that an employee is not vested with the power to sanction leave or to initiate disciplinary proceedings is not conclusive of the question as to whether the work that is performed by the employee falls within one of the categories stipulated in Section 2(s) of the I. D. Act. The Hon'ble High Court has further observed that the law has kept pace with times by recognizing that in order to determine whether the person is a workman u/s 2(s) contemporary notion of business cannot be straightified by notions of economic*

organization to develop foreign era which is no more. The Hon'ble High Court has further held that the fact that the decisions of an employee are subject to verification or subject to a system of controls and balances does not establish that the employee is a "Workman" within the meaning of Section 2(s). Managers do not become Workmen because their decisions are structured by process and approvals. Absolute autonomy is not the norm in managerial decision making".

16. In the case of **Vijay Dattatray Kale v/s Pico Electronics and Electricals Ltd., Pune and another, reported in 2009 I CLR 867**, the Hon'ble Court of Bombay has observed that "the Labour Court has rightly referred to the main attributes to the petitioner's function which were supervisory in nature. The work of Appraisal of C-4 category staff and recommendation of their leave has been taken into account by the Labour Court. The Hon'ble Court has further observed that the power to recommend, access and verify the work done by the subordinate staff was supervisory work and not clerical".

17. In the case of **Somnath Tulshiram Galande v/s Presiding Officer, IInd Labour Court, Pune and others reported in 2008 1 CLR 656**, the Hon'ble High Court at Bombay has held that "the appellant in the present case had multi-farious duties and most of his duties were supervisory and managerial. He had the power and capacity to take decisions, supervise work of others and was also responsible of quality control of the product being manufactured. The appellant was not a "workman" within the Section 2(s) of the Act".

18. In the case of **V. K. Sharma v/s Government of NCT of Delhi and another reported in 2008 II CLR 971** the Hon'ble High Court of Delhi has held that "the findings of the facts were recorded on the basis of the evidence which is referred to in para-14 of the Award. The Hon'ble High Court has further observed that the appellant was in fact discharging the duties of the manager and was performing administrative work and also was supervising the work of other staff members in the canteen hence, he is not a Workman".

19. In the case of **21st Century Printers Ltd. Mumbai v/s K. P. Abraham and another reported in 2008 3 CLR 616** the Hon'ble High Court of Bombay has held that "the function of purchasing, i. e. acquiring from the market, materials and machinery sometimes of considerable value, necessary for carrying out manufacture is clearly not operational, clerical or supervisory. The work

involves having knowledge of machinery for material which is required to be purchased from the market. This knowledge is specialized and necessary to enable the employee to carry out purchases which may be of considerable value. The respondent performed mainly a managerial function and is therefore excluded from the definition of a "Workman". The Hon'ble High Court has further observed that the true test must depend on the nature of the function and not whether the person has any other employee working under him. Having regards to the nature of activity of purchase it appears that the function must be classified as managerial being the part of controlling and regularizing the functions of the industry.

20. In the case of **Sitaram Vishnu Shirodkar v/s The Administrator, Government of Goa**, the Hon'ble High Court of Bombay, at Panaji bench, has held that "the tribunal could not travel beyond the reference and decide the question whether the respondent No. 4 had abandoned his services. That the petitioner had terminated the services of the respondent No. 4 was an act fastened on the petitioner by this reference and the only question left open for decision was whether the termination was legal and proper". The law laid down by the Hon'ble High Court of Bombay in its aforesaid decision on the point in issue is totally different than the point in issue in the present case, hence the said decision is not applicable to the present case.

21. In the case of **Union Carbide (India) Ltd. v/s D. Samuels and ors. reported in 1998 (80) 684** the Hon'ble Court of Bombay has laid down certain tests while deciding the concerned person is a workman or not:

- (1) Designation is not material but what is important is the nature of work.
- (2) Find out the dominant purpose of employment and not any additional duties the employee may be performing.
- (3) Can he bind the Company/Employer to some kind of decisions on behalf of the Company/Employer.
- (4) Has the employee power to direct or oversee the work of his subordinates.
- (5) Has he power to sanction leave or recommend it; and
- (6) Has he the power to appoint, terminate or take disciplinary action against workmen.



From the Judgments of this Court and the High Courts some of the tests apart from what the Apex Court has stated are:

- (a) Whether the employee can examine the quality of work and whether such work is performed in satisfactory manner or not;
- (b) Does the employee have powers of assigning duties and distribution of work;
- (c) Can he indent material and distribute the same amongst the workmen;
- (d) Even though he has no authority to grant leave, does he have power to recommend leave;
- (e) Are there persons working under him;
- (f) Has he the power to supervise the work of men and not merely machines;
- (g) Does he mark the attendance of other employees;
- (h) Does he write the confidential reports of his subordinates.

The LD. Adv. P. Chawdikar during the course of his oral arguments has also relied upon an award passed by the Industrial Tribunal in its case No. IT/74/92. However, in view of the settled proposition of law that an award passed by the Industrial Tribunal does not binds precedent on the Labour Court. Hence the said decision relied upon cannot be looked into.

Thus from the aforesaid series of decisions of the Hon'ble Apex Court as well as the Hon'ble High Court of Bombay, it is well settled proposition of law that in determining the question as to whether a person concerned is a Workman or not as defined u/s 2(s) of the I. D. Act, the Court has to find out the primary and basic nature of duties performed by him at the time of termination of his services irrespective of his designation.

22. In the case in hand, though it is denied by the Employer that the Party I is not a "Workman" as defined u/s 2 (s) of the I. D. Act, 1947, the Party I has specifically failed to plead either in his claim statement or in the rejoinder filed by him in the present proceedings his predominant nature of duties performed by him at the relevant time. The Party I however pleaded that he was performing the duties that of the "workman" as defined u/s 2(s) of the I. D. Act, 1947. The Party I, in his oral evidence on record stated that he was repairing the washing machines of the Employer at different places of customer and after completing his job and attending the complaints,

he was giving the job card to the clerk to forward the same to the Bombay Office. The Party I, however failed to produce on record any documentary evidence in support of his oral evidence nor directed to summon to produce any of the documentary evidence in spite of the fact that the Employer has denied of having performed the aforesaid duties by the Party I. Hence it is held that Party I has failed to prove that he was repairing the washing machines of the Employer at different places of customers. He also stated that he was doing the same work which he was doing as Service Technician under the guidance and supervision of Mr. Fernando Denis. The Party I, however in his cross examination stated that the Board of Directors of the Employer has authorized him to sign certain cheques after passing necessary resolution. He also admitted that he used to approve the leave and LTA applications of certain workers employed. He also admitted that he used to write Annual Performance Appraisal of the workers of the Party II at the relevant time. He also admitted that he used to approve the indents which were required for the machinery. The Employer also alleged that the Party I was distributing work among his subordinates and exercising control over them, was issuing instructions to his subordinate, was advising disciplinary actions on his subordinates, was requisitioning manpower and was recommending appointments under his supervisory and managerial control, was corresponding on behalf of the Employer Company in the matters of auditing, indenting and purchase of materials and was also corresponding with the franchisee. The Employer Company however failed to produce on record any documentary evidence in support of their oral evidence even though the Party I denied of having performed the said duties. Hence it is held that the Employer failed to prove that the Party I was distributing work among his subordinates and exercising control over them, was issuing instructions to his subordinate, was advising disciplinary actions on his subordinates, was requisitioning manpower and was recommending appointments under his supervisory and managerial control, was corresponding on behalf of the Employer Company in the matters of auditing, indenting and purchase of materials and was also corresponding with the franchisee.

23. Thus the evidence on record indicates that the Employer Company is looking after sales and service operations at its Goa branch and is mainly dealing with installations of their products and looks after the sales and service of its customers.



The Party I was designated as "Senior Service Engineer". The evidence on record indicates that the Party I was signing certain cheques as an authorized signatory on behalf of the Employer Company, used to approve leave and LTA applications of the employees in the matter of its subordinates, used to write the Annual Performance Appraisal of the subordinate staff. Unless and until the person concerned has observed the work performance of his subordinates, he will not be in a position to appraise the performance of the said workman. Though the said duty i.e. Annual Performance Appraisal has to be written once in a year, it requires a constant supervision of the performance of work done by the concerned subordinate. Thus the aforesaid duties performed by the Party I are supervisory and managerial in nature. The evidence on record indicates that the Party I was drawing wages more than Rs. 6,115/- as can be seen from his Promotion Letter dated 20-07-96 (Exhibit-E/2). Thus most of the duties performed by the Party I were of supervisory and managerial in nature and hence it is held that the Party I is not a "Workman" as defined u/s 2(s) of I. D. Act. The issue No. 1 is therefore answered in Negative.

24. *Issue Nos. 2 & 3:* It is the contention of the Party I that on 08-09-99 the Management of the Employer provoked him and obtained his signature on one undated Resignation Letter addressed to the Branch Head Office, Panaji, Goa under force, threat, duress and coercion and that he withdrew his said Resignation Letter vide his letter dated 15-09-1999 addressed to the Head Office, Branch Head, Panaji, Goa before his letter of resignation was accepted. Since, while discussing the issue No. 1 hereinabove, I have already come to the conclusion and held that the Party I is not a "workman" as defined u/s 2 (s) of the I. D. Act, 1947. In the circumstances, this Court has no jurisdiction to adjudicate the present Order of Reference. Therefore the question of deciding issue No. 2 and 3 does not arise.

25. *Issue Nos. 4, 5 & 6:* It is the contention of Party I that the Employer Company has terminated his services w.e.f. 28-09-1999 illegally and in unjustified manner. While discussing the issue No. 1 hereinabove, I have already come to the conclusion and held that the Party I is not a "workman" as defined u/s 2(s) of the I. D. Act, 1947. In the circumstances, this Court has no jurisdiction to adjudicate the present Order of Reference. Therefore the question of deciding issue Nos. 4, 5 and 6 does not arise.

In view of the above, I pass the following Order:

## ORDER

1. It is held that the Party I, Shri Arun B. Devari, the Assistant Service Engineer of M/s. Shubh Engineering Ltd, Panaji-Goa is not a "workman" as defined u/s 2(s) of the Industrial Disputes Act, 1947.
2. It is further held that the dispute as to whether the action of the Management of M/s. Shubh Engineering Ltd., Panaji, in terminating the services of Shri Arun B. Devari, Assistant Service Engineer, with effect from 28-09-1999, is legal and justified, does not survive.
3. The Party I, Shri Arun B. Devari, Assistant Service Engineer, is not entitled to any relief.
4. No order as to costs.
5. Inform the Government accordingly.

Sd/-  
(Suresh N. Narulkar),  
Presiding Officer,  
Labour Court-II.

## Notification

No. 28/1/2011-LAB

The following award passed by the Labour Court-II, at Panaji-Goa on 20-12-2010 in reference No. IT/21/08 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Vasanti H. Parvatkar, Under Secretary (Labour).  
Porvorim, 18th January, 2011.

THE LABOUR COURT-II  
GOVERNMENT OF GOA  
AT PANAJI

(Before Shri Suresh N. Narulkar, Hon'ble  
Presiding Officer)

Case No. Ref. IT/21/08

Shri Kazi M. Sharif,  
H. No. 62,  
Opp. Union Bank of India,  
Kaziwada, Ponda-Goa. ... Workman/Party I  
V/s

The Chief Officer,  
Ponda Municipal Council,  
Ponda-Goa.

... Employer/Party II

Party I/Workman represented by Adv. S. Gaonkar.

Party II/Employer represented by Adv. P. Chawdikar.

Panaji, dated : 20-12-2010.

#### AWARD

1. In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by Order dated 08-05-2008 bearing No. 28/08/2008-LAB/528, referred the following dispute for adjudication to the Industrial Tribunal of Goa.

*“(1) Whether the action of the Ponda Municipal Council, Ponda, Goa, in refusing the employment to Shri Kazi M. Shariff, Tax Collector, when he reported for duties on 24-9-99 upon his acquittal by Criminal Court, is legal and justified?”*

*“(2) If not, to what relief the Workman is entitled to?”*

2. On receipt of the reference, a case was registered under No. IT/21/08 and registered A/D notice was issued to the parties. In pursuance to the said notice, the parties put in their appearance. The Workman/Party I (for short ‘Workman’), filed his statement of claim on 10-07-08 at Exhibit-5. The facts of the case in brief as pleaded by the Workman are that he was appointed as “Tax Collector” on the recommendation of the Departmental Promotion Committee vide Order dated 28-08-1980. He stated that thereafter his services were regularized from 14-07-1980 vide another Order dated 25-01-1990. He stated that since 02-05-1990 he could not attend his duty due to domestic work. He stated that he had informed the Employer/Party II (for short “Employer”) about his absence from duty due to domestic work. He stated that in the month of May, he was sick and requested for sanctioning of Earned Leave upto 16-05-1990. He stated that during the said period he fell sick and was under the treatment of doctor and a Medical Certificate dated 07-06-1990 was submitted to the Employer. He stated that he had submitted the justification for his absence from duty vide his letter dated 10-10-1990 and requested the Employer to allow him to resume for duties. He stated that he was informed by the Employer that his case has been sent to the Director of

Panchayat and on receipt of the reply, they will take the decision. He stated that he had requested the Employer on several occasions to allow him to resume for duties, but on all occasions, he was informed that he will be allowed to resume the duty and will be paid all his back wages only after the acquittal from the said Criminal Case. He stated that the Hon’ble Judicial Magistrate First Class, Ponda-Goa, was pleased to acquit him from all the criminal charges vide its Judgment and Order dated 31-08-1999. He stated that on receipt of the judgment passed by the Hon’ble Judicial Magistrate First Class, Ponda-Goa, he requested the Employer to allow him to resume for his duties vide his representation dated 24-09-1999. He stated that on several occasions he had submitted the Joining Report, however he was not allowed to resume for his duties. He therefore raised an Industrial Dispute against the refusal of his employment before the Assistant Labour Commissioner, Ponda-Goa. He stated that the said Industrial Dispute ended in failure due to the adamant attitude of the Employer.

He contended that no fair and proper inquiry was conducted by the Employer before refusal of employment to him and hence violated the principles of natural justice. He submitted that the refusal of employment to him by the Employer is illegal and bad in law and hence he is entitled for reinstatement with full back wages. He stated that since his termination of services, he is unemployed and could not succeed in getting any employment. He therefore prayed that the refusal of employment to him be declared as illegal, improper and unjustified and direct the Employer to reinstated him with full back wages and continuity in service.

3. The Employer controverted the case of the Workman by filing written statement on 06-10-2008 at Exhibit-9. The Employer by way of preliminary objection submitted that they have not terminated the services of the Workman and hence the “Industrial Dispute” does not exist. The Employer however admitted that the Workman was working as “Tax Collector” in their Taxation Section. The Employer stated that somewhere in the month of May, 1990, it was noticed by the then Chief Officer, Shri Joseph Carvalho, that the Workman had remained absent from duty since 02-05-1990 and therefore a Memorandum bearing No. PMC/ADMN/301/1990-91 was issued to him for his unauthorized absence and directed him to join the duties immediately. The Employer stated that the Workman had filed his reply to the aforesaid memo issued to him vide his reply dated 14-05-1990 stating that on 02-05-1990, he had orally

communicated to the Employer's office that due to some domestic work he was unable to attend his duties and further requested for granting him an Earned Leave. The Employer stated it had issued another Memorandum bearing No. PMG/ADMN/737/90-91 dated 30-06-1990 to the Workman stating that the explanation submitted by him vide his letter dated 14-05-1990 was not satisfactory and he was further directed to report for his duties immediately. He was also directed to show cause as to why action should not be taken against him. The Employer stated that the Workman had however, not filed his reply till 04-09-1990 and therefore the charges were framed and a chargesheet was issued to him vide Memorandum No. PMC/ADMN/1236/90-91 dated 04-09-1990 stating that the Workman while functioning as "Tax Collector" remained absent unauthorisedly from his duties for the period starting from 14-07-1980 to 01-05-1990. The Employer stated that the Workman had produced his Medical Certificate and requested for extension of time to join his duty and also requested for seven days time to file reply to the said chargesheet issued to him vide his letter dated 25-09-1990. The Employer stated that it had granted the request of the Workman and further directed him to apply for leave alongwith Medical Certificate in the prescribed form as per the procedure. The Employer stated that the Workman had informed them that he would be joining his duties from 22-10-1990 vide his letter dated nil, however he failed to do so. The Employer submitted that they were unable to complete the inquiry against the Workman due to some unavoidable circumstances and crave leave of this Hon'ble Court to permit them to lead evidence to prove the charges levelled against him. The Employer stated that they have not terminated the services of the Workman, but it is the Workman who stopped attending his duties w.e.f. 22-10-1990 on its own for the reason best known to him and therefore the question of refusal of employment does not arise. The Employer stated that the Workman is gainfully employed. The Employer stated that the dispute raised by the Workman before the Assistant Labour Commissioner does not amount to an Industrial Dispute. The Employer denied the overall case of the Workman and prayed for the rejection of present reference.

4. Therefore the Workman filed his rejoinder on 16-12-2008 at Exhibit-10. The Workman by way of his rejoinder reiterates that the Employer did not allow him to resume his duties, inspite of his several letters and hence denied that there is no

termination of services. He submitted that the refusal of employment amounts to an illegal termination of his services. He submitted that he is willing to join his duties at any point of time.

5. Based on the pleadings filed by the respective parties this Hon'ble Court framed the following issues on 15-01-2009 at Exhibit-11:

1. Whether the Party I proves that he was not allowed to report for duties w.e.f. 24-9-99?
2. Whether the Party I proves that the action of Party II in refusing employment is illegal and in contravention of provisions of the Act?
3. Whether the Party II proves that the Party I had failed to report for duties w.e.f. 22-10-90?
4. What Relief? What Award?

6. My answers to the aforesaid issues are as under:

- (a) Issue No. 1: In the Affirmative.
- (b) Issue No. 2: In the Affirmative.
- (c) Issue No. 3: In the Negative.
- (d) Issue No. 4: As per final Order.

#### REASONS

7. *Issue Nos. 1 & 3:* The Workman contended that he was not allowed to report for his duties w.e.f. 24-09-1990 by the Employer inspite of the fact that he had orally as well as in writing requested for the same. The Employer denied the said contention of the Workman and stated that the Party I had abandoned his services. This Hon'ble Court therefore framed the issue Nos. 1 and 3 by putting the burden to prove their contention respectively.

I have heard the oral arguments of the Ld. Advocates appearing for the respective parties.

8. Ld. Adv. S. Gaonkar during the course of his oral arguments submitted that the Workman has examined himself in order to prove the issue No. 1 and also produced on record documentary evidence. He submitted that the Workman in his oral evidence stated that on several occasions he had requested the Employer to allow him to resume for his duties orally as well as in writing. He submitted that in addition to his oral evidence, the Workman has also produced on record documentary evidence such as, his various letters addressed to the Employer i.e. letter dated 24-09-99 (Exhibit-W/7), letter dated 27-12-99 (Exhibit-W/8) and his letter dated 09-03-06

(Exhibit-W/9). He submitted that the aforesaid oral as well as documentary evidence on record clearly indicates that the Workman was refused the employment by the Employer w.e.f. 24-9-99. He submitted that the Employer's sole witness Shri Luis Pires in his cross examination clearly admitted that the Workman had approached the Employer in the year 1991 and tried to resume for his duties. He submitted that the Employer's said witness also admits that the Workman had made a representation vide its letter dated 24-09-1999 after his acquittal from the Criminal charges by the Hon'ble JMFC, Ponda, however the Employer did not allow him to join for his duties. In support of his contention, the Ld. Adv. S. Gaonkar relied upon two decisions of the Hon'ble High Court of Bombay, (1) in the case of **Dharamraj Vithoba Natekar v/s Unique Industries & ors.** and (2) **Noble Paints Pvt. Ltd., v/s Mr. Ashok Tukaram Shinde reported in 2004(3) BCR 356.**

9. On the contrary, Ld. Adv. Shri P. Chawdikar representing the Employer, during the course of his oral arguments, submitted that the services of Party I has not been terminated by the Employer, but it is the Party I who abandoned his services. He submitted that Party I was directed to report for his duties vide Memo dated 30-06-1990 at Exhibit-E/7, however the Workman failed to report for his duties. He stated that the Workman was therefore issued a Memorandum-cum-Charge sheet dated 25th July, 1991 at Exhibit-E/8-Colly for his misconduct of unauthorized absenteeism as well as misappropriation of funds. He submitted that the conduct of the Workman shows that he was not interested in joining his duties and therefore it is a clear case of abandonment of service.

I have carefully perused the records of the said case. I have also carefully considered the various legal submissions made by the Ld. Advocates appearing for the respective parties.

The law on the subject has been propounded in the following cases decided by the Hon'ble High Court of Bombay.

10. In the case of **Dharamraj Vithoba Natekar v/s Unique Industries and Ors.**, the Hon'ble High Court of Bombay has held that *"it is well established that abandonment of services which is an inference which can be raised upon considerate of the totality of circumstances and that the Court should raise the inference only if it is satisfied that the circumstances do indicate the Workman was clearly not interested in continuing his service"*.

11. In the case of **Gangaram K. Medekar v/s Zenith Safe Mfg. Co. and ors. reported in 1996 ICLR 172** it has been held by the Hon'ble High Court of Bombay that *"in cases of voluntary abandonment of service, it is matter of intention. It is a matter of inference being drawn on given set of facts. The Employer unilaterally cannot say that the Workman is not interested in employment and it is for this reason that a domestic inquiry is required to be held"*. The Hon'ble High Court has further held that *"it is well settled principle of law that if misconduct is the foundation of dismissal, then a domestic inquiry is warranted"*.

12. In the case of **Noble Paints Pvt. Ltd., v/s Mr. Ashok Tukaram Shinde reported in 2004(3) BCR 356**, the Hon'ble High Court of Bombay after relying upon its division bench decision of **Gaurishankar Vishwakarma v/s Eagle Spring Industries Pvt. Ltd., and ors. reported in (1988) I CLR 38** and in the case of **Abdul Rashid v/s Indian Sailors Home Society and ors. reported in (1988) I LLN 129** has held that *"so far as the question of abandonment is concerned in the view of the well settled position in law abandonment or relinquishment of service is a question of intention. Whether there has been a voluntary abandonment of service is a question of fact which has to be determined in the light of the surrounding circumstances of each case"*.

Thus, in view of the aforesaid decisions of the Hon'ble High Court of Bombay it is settled position in law that abandonment of service is a question of intention. Whether there has been a voluntary abandonment of service is a question of fact which has to be determined in the light of the surrounding circumstances of each case.

13. In the present case, the Workman has pleaded and also stated in his Affidavit in Evidence that he was not allowed to resume duties by the Employer inspite of his letter dated 10-10-90 and that he was orally told that he will be allowed to resume his duties only after the acquittal in the criminal case. The oral evidence of the Workman also indicates that he had requested the Employer on several occasions to allow him to resume the duties but he was not allowed to resume his duty. The Workman has also produced on record his various letters in support of his oral evidence. The letter of the Workman dated 10-10-90 addressed to the Chief Officer of the Employer at Exhibit-W/6 indicates that the Workman had tendered his explanation for his absence from duty for the period starting from 02-05-1990 to 26-09-90 and requested for his re-instatement in service. Further



the letter of the Workman dated 24-09-99 on record at Exhibit-W/7 addressed to the Chief Officer of the Employer indicates that the Workman had informed the Chief Officer of the Employer that he has been acquitted by the Hon'ble Court of Judicial Magistrate First Class, Ponda from the charges levelled against him and had requested for his reinstatement with back wages with immediate effect. The letter of the Workman dated 27-12-99 addressed to the Chief Officer of the Employer at Exhibit-W/8 indicates that he had joined his duties from 24-09-99, however his salaries were not paid to him. The Workman had also produced on record his letter dated 09-02-06 addressed to Assistant Labour Commissioner, Ponda-Goa (Exhibit-W/9) pertaining to his refusal of employment w.e.f. 24-09-99. In cross his examination, the Workman admits that he was issued and served upon memos from time to time. He also admits that he was prosecuted on the charge of misappropriation of funds of the Employer amounting to ` 7,825.40 before the Hon'ble J.M.F.C., Ponda-Goa. He denied the various suggestions put to him by the Ld. Adv. for the Employer during the course of his cross examination. The documentary evidence produced by the Workman has not been controverted by the Employer.

14. On the contrary, the Employer has examined one Shri Luis Pires, an employee working as Superintendent with the Employer. The oral evidence adduced by the said Luis Pires on record indicates that the Workman had remained absent for the period starting from 02-05-90 till 26-09-90 unauthorizedly and therefore he was issued and served a memo on account of his unauthorized absenteeism. He also stated that the Workman had stopped attending duties w.e.f. 22-09-90 on its own for the reasons best known to him and therefore the question of refusal of employment does not arise. In addition to the oral evidence, the Employer has also produced on record various memorandums issued to the Workman. The memo of the Employer dated 15-06-87 issued to the Workman (Exhibit-E/1) indicates that the Workman had remained absent from duty since 04-06-87 and therefore he was directed to report for his duties immediately failing which necessary action will be taken against him. He was also directed to show cause within 3 days as to why action should not be taken against him for being absent from duties. The memo of the Employer dated 08-02-90 (Exhibit-E/6) issued to the Workman indicates that the Workman had remained absent from his duties since 02-02-90 and therefore he was directed to report for his duties immediately, failing which

necessary action will be taken. The memo of the Employer dated 30-06-90 addressed to the Workman (Exhibit-E/7) also indicates that the Workman remained absent since 02-05-90 and he was therefore directed to report for his duties immediately, failing which necessary action will be taken against him. The Memorandum of the Employer dated 25-07-91 (Exhibit-E/8-Colly) as well as Memorandum dated 09-10-2001 (Exhibit-E/13-Colly), indicates that a charge sheet was issued to the Workman for his alleged misconduct of misappropriation as well as alleged unauthorized absenteeism since 02-05-90. The said Luis Pires, the sole witness of the Employer, however in his cross examination stated that there was no communication from the Employer's side to the Workman after his letter dated 10-10-90 till 25-07-91. He admitted that the Workman had approached the Employer in the year 1991 and tried to resume his duty. He also admitted that the Workman had made a representation vide his letter dated 24-09-99 (Exhibit-W/7) after his acquittal from the criminal charges by the Hon'ble J.M.F.C. Ponda, however the Employer did not allow him to join for his duties. Thus in view of clear and unambiguous admission of the Employer's sole witness, I have no hesitation in holding that the Workman was refused employment w.e.f. 24-09-99.

15. Even otherwise the evidence on record indicates that the Employer has neither replied to the letter of the Workman dated 24-09-1999 (Exhibit-W/7) nor held any disciplinary inquiry against the Workman, though he was issued and served upon Memorandum of similar and identical nature twice i.e. Memorandum dated 25th July, 1991 and Memorandum dated 9th October, 2001 alleging therein misconduct of unauthorized absenteeism and misappropriation of the funds. The evidence on record also indicates that the Employer has not followed any other alternative procedure for investigating the alleged misconduct of unauthorized absenteeism on the part of the Workman. Thus remained silent spectator. The aforesaid act on the part of the Employer clearly indicates that the Employer has failed to investigate the alleged misconduct of unauthorized absenteeism on the part of the Workman. In view of above, the Employer has no right to conclude that the Workman has abandoned his service, pending his representation dated 24-09-1999 (Exhibit W/7) and letter of the Workman dated 27-12-1999 (Exhibit W/8).

Thus the oral as well as documentary evidence on record indicates that the Workman was refused employment w.e.f. 24-09-99. It is therefore held that the Workman was refused employment w.e.f. 24-09-1999. The issue No. 1 is therefore answered in the affirmative. Hence the plea of the Employer that the Workman stopped attending his duties w.e.f. 22-10-90 on its own for the reason best known to him, must fail. The issue No. 3 is therefore answered in the negative.

16. Issue No. 2: It is the contention of the Workman that the action of the Employer in refusing employment to him is in violation of principles of natural justice as well as in contravention of the provisions of the I. D. Act and hence it is illegal, unjustified and bad in law. The burden to prove the same is therefore on the Workman.

I have heard the oral arguments of the Ld. Advocates appearing for the respective parties.

17. Ld. Adv. S. Gaonkar during the course of his oral arguments submitted that the oral as well as documentary evidence on record indicates that the Workman was employed as "Tax Collector" w.e.f. 28-08-80 and that he was refused employment by the Employer w.e.f. 24-09-99 without following the principles of natural justice by holding disciplinary inquiry against the Workman pertaining to the alleged misconduct of unauthorized absenteeism as well as misappropriation of their funds. He submitted that the action of the Employer in refusing the employment to the Workman w.e.f. 24-09-99 amounts to illegal termination of services. In support of his oral contention he relied upon three decisions of Hon'ble High Court of Bombay (1) In the case of **Rajaram Rama Hargule v/s E. W. Bhuyar and another reported in CDJ 2002 BHC 936**, (2) In the case of **Motiram Devji Bawankar v/s R. R. Bhavsar, P.O. Labour Court and ors.** and (3) In the case of **D. K. Yadav v/s M/s. J. M. A. Industries Ltd., reported in 1993 LLR 584** and a decision of Hon'ble High Court of Madras in the case of the **"Management of MBD Motor Transport Kamarajar Street v/s Presiding Officer, Principle Labour Court, Chennai"**.

18. On the contrary Ld. Adv. P. Chawdikar during the course of his oral arguments submitted that they have not terminated the services of the Workman, but it is the Workman who has voluntarily abandoned his services and therefore he was issued charge sheet in the form of Memorandum vide Memorandum dated 25-07-91 and Memorandum dated 09-10-01, however an inquiry could not be completed due to unavoidable

circumstances. He submitted that the oral as well as documentary evidence produced by the Employer on record indicates that the Workman was directed to report for his duties immediately is itself enough to comply the principles of natural justice in the present case and there is no need to hold any disciplinary inquiry against the Workman. He relied upon the following decision of Hon'ble Supreme Court of India (1) in case of **Divisional Controller N.S.K.R.T.C., Ambresh reported in (2006) SCC 187**, (2) In the case of **U. P. State Road Corporation v/s Sureshchand Sharma reported in (2010) SCC 555**, (3) In the case of **Municipal Committee Bahadur v/s Krishnan Behari reported in CDJ 1996 SC048**, (4) In the case of **Regional Manager, R.S.R.T.C. v/s Ghanshyam Sharma reported in 2002 LLJ 234** and a decision of Hon'ble High Court of Andhra Pradesh in the present case of **P. Chandrahas v/s Presiding Officer, Labour Court II, Hyderabad and Ors. 2008 II CLR 836**.

I have carefully perused the records of the present case, I have also considered the various oral submissions made by the respective parties.

19. While discussing the issue No. 1 herein above, I have already discussed and come to the conclusion that the Workman was refused the employment w.e.f. 24-09-99.

In case of **Divisional Controller N.E.K.R.T.C. v/s H. Amaresh reported in (2006) SCC 187** the Hon'ble Apex Court has held that *"when an employee is found guilty of pilferage or misappropriated the Corporation funds there is nothing wrong in the Corporation losing confidence or faith in such an employee and awarding punishment of dismissal"*. In the said case before the Hon'ble Supreme Court of India the Workman was found guilty of misappropriation in the domestic inquiry conducted against the Workman in respect of misconduct of misappropriation of cash. The facts of the present case are totally different than the aforesaid case before the Hon'ble Apex Court, hence the principle laid down by the Hon'ble Apex Court does not apply to the present case.

20. In the case of **U. P. State Road Corporation v/s Sureshchand Sharma reported in (2010) SCC 555**, the Hon'ble Apex Court has held that *"there is no need to examine the passengers in the domestic inquiry held against the Workman"*. However, in the present case no domestic inquiry has been conducted against the Workman to prove the charges of unauthorized absenteeism as well as misappropriation of funds, hence the principle laid down by the Hon'ble Apex Court in its aforesaid case is not applicable to the present case.

21. In the case of **Municipal Committee Bahadur v/s Krishnan Behari reported in CDJ1996 SC048**, the Hon'ble Apex Court held that *"there cannot be any other punishment then dismissal in the cases of corruption and misappropriation of public funds"*. In the said case before the Hon'ble Apex Court the Workman convicted u/s 468 hence the principle laid down is not applicable to the present case.

22. In the case of **P. Chandrahas v/s Presiding Officer, Labour Court II, Hyderabad and Ors. 2008 II CLR 836**, the Hon'ble High Court of Andhra Pradesh, on the basis of proved misconduct duly proved in departmental inquiry it has been held that *"on mere acquittal by criminal court an employee would not be automatically entitled to reinstatement except the ipsi dixit"*. The facts of the case before the Hon'ble High Court of Andhra Pradesh were totally different than the present case, hence the principle laid down by the Hon'ble High Court in its aforesaid case is not applicable to the present case.

23. In the case of the **"Management of MBD Motor Transport Kamarajar Street v/s Presiding Officer, Principle Labour Court, Chennai**, the Hon'ble High Court of Madras while relying on the case of **Mohanlal v/s Management of M/s. Bharat Electronics Ltd., reported in AIR 1981 SC 1953** observed that the Labour Court has correctly held that the termination of the services has taken place without notice or inquiry and hence it is violation of principles of natural justice. The principal laid down by the Hon'ble High Court of Madras is equally applicable to the present case.

24. In the case of **Rajaram Rama Hargule v/s E. W. Bhuyar and Anr. reported in CDJ 2002 BHC 936**, the Hon'ble High Court of Bombay in the said case before the Hon'ble High Court of Bombay the services of the petitioner were terminated without notice, charge sheet or inquiry. The petitioner was issued notice calling upon him to report for duties.

25. In the case of **Motiram Devji Bawankar v/s R. R. Bhavsar, P. O. Labour Court and ors.** the Hon'ble High Court of Bombay has held that *"It is clear that though the second Resp. had not issued a letter of termination in writing, the petitioner had been refused work or all along from January 4, 1985, without taking any action according to law or without termination of service in accordance with any known legal mode"*. If that be so, then the act of the second Resp. in persistently refusing employment to the petitioner, by oral order, would certainly amount to illegal

termination of service of the petitioner. The facts of the aforesaid case before the Hon'ble High Court of Bombay are similar to the present case, hence the principle laid down by the Hon'ble High Court is equally applicable to the present case.

26. In the case of **Regional Manager, R.S.R.T.C. v/s Ghanshyam Sharma reported in 2002 LLJ 234** the Hon'ble Apex Court has observed that the Labour Court has not justified in interfering with punishment of dismissal. When the main duties or the function of the conductor is to issue tickets and collect fare and then deposit the same with the Road Transport Corporation and when a conductor fails to do so, then it will be misplaced sympathy to order his reinstatement instead of dismissal. The principle laid down by the Hon'ble Apex Court is not applicable to the present case as the action of dismissal was taken on the basis of true misconduct of misappropriation by holding inquiry.

27. In the case of **D. K. Yadav v/s M/s. J. M. A. Industries Ltd., reported in 1993 LLR 584**, the Hon'ble Apex Court has held that *"the termination of service of an employee without holding an inquiry or affording him an opportunity to put forth his case amounts to depriving him of his livelihood. Right to Public Employment and its concomitant right to livelihood received protective umbrella under the canopy of Arts. 14 and 21 etc. Art. 21 guarantees right to life which includes right to livelihood, the deprivation thereof must be in accordance with just and fair procedure prescribed by law conformable to Arts. 14 and 21 so as to be just, fair and reasonable. The principles of natural justice are integral part of the guarantees of equality assured by Art. 14. The power to terminate the service of an Employee/Workman in accordance with just, fair and reasonable procedure is an essential inbuilt of natural justice. Art. 14 strikes at arbitrary action"*.

28. In the case in hand, admittedly a memo was issued to the Workman to report for his duties immediately pointing out his absence from duty since 02-05-90 and was also directed to show cause as to why action should not be taken against him on his unauthorized absence. The Workman was subsequently issued a Memorandum by framing the charges of unauthorized absence from duty as well as misappropriation of amount of Rs. 7,825.40 vide its memorandum dated 25-07-91 and 09-10-01. The Employer however failed to conduct a domestic inquiry into the said alleged misconduct against the Workman, nor followed any other alternative procedure for investigation



of the alleged misconduct of an unauthorized absenteeism on the part of the Workman. On the contrary refused the employment to the Workman w.e.f. 24-09-99. Hence, it is held that the action of the Employer in refusing the employment to the Workman w.e.f. 24-09-99 is in breach of the well established principles of natural justice. The action of refusal of employment to the Workman w.e.f. 24-09-99 amounts to illegal termination of service of the Workman. The issue No. 2 is therefore answered in affirmative.

29. Issue No. 4: While discussing the issue No. 2 hereinabove, I have already come to the conclusion and held that the action of the Employer in refusing employment to the Workman w.e.f. 24-09-99 is illegal and unjustified as it is in contravention of the well established principles of natural justice as well as the precedent laid down by the Hon'ble High Court of Bombay as well as Hon'ble Apex Court in its aforesaid decisions.

30. The evidence on record indicates that the Workman has rendered more than 10 years of services with the Employer. The evidence on record indicates that the Workman is unemployed and could not succeed in getting any employment. The evidence on record also indicates that the Workman has not tried for alternative job since the date of termination of his service by the Employer. The evidence on record indicates that at present the age of the Workman is 55 years.

31. In the case of **M/s. Reetu Marbles v/s Prabhakant Shukla and Anr., reported in 2010 (124) FLR 72**, the Hon'ble Supreme Court of India has held that *"Although direction to pay full back wages on a declaration that the order of termination was invalid used to be usual result but now, with the passage of time, a pragmatic view of the matter is being taken up by the Court realizing that an industry may not be compelled to pay to the Workman for the period during which he apparently contributed little or nothing at all to it and/or for a period that was spent unproductively as a result whereof the employer would be compelled to go back to a situation which prevailed many years ago, namely, when the Workman was retrenched"*.

32. The Hon'ble Supreme Court of India in its case of **Senior Suptd. Telegraph (Traffic), Bhopal v/s Santosh Kumar Seal & ors. reported in 2010 III CLR 17** it has been held that *"it is very settled principle that relief by way of re-instatement with back wages, is not automatic, even if termination of Workman is illegal or in contravention of prescribed procedure"*.

33. **The Hon'ble Supreme Court of India in its another case of Jagbir Singh v/s Haryana State Agriculture Marketing Board & anr. reported in 2009 III CLR 628** it has been held that *"it is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in the recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of re-instatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee in contravention of the prescribed procedure, compensation instead of reinstatement has been held to meet the ends of justice"*.

34. Thus, the Hon'ble Apex Court in its various recent decisions has consistently held that a relief of reinstatement with full back wages and consequential benefits is not automatic, even if the termination of the Workman is illegal or in contravention of prescribed procedures. I am bound by the precedent laid down by the Hon'ble Apex Court in its aforesaid decisions. Considering the allegations levelled against the Workman, his age, service rendered and similar other factors, in my opinion, a relief of reinstatement with consequential service benefits alongwith 25% of back wages would meet the ends of justice.

In view of the above discussions, I proceed to pass the following Order:

#### ORDER

1. It is held that the action of the Ponda Municipal Council, Ponda, in refusing the employment to Shri Kazi M. Shariff, Tax Collector, when he reported for duties on 24-09-99 upon his acquittal by Criminal Court, is illegal and unjustified.
2. The Ponda Municipal Council, Ponda-Goa is therefore directed to reinstate the Workman, Shri Kazi M. Shariff, Tax Collector, with 25% of back wages immediately with consequential service benefits.
3. No order as to costs.
4. Inform the Government accordingly.

Sd/-  
(Suresh N. Narulkar),  
Presiding Officer,  
Labour Court-II.



**Notification**

No. 28/1/2011-LAB

The following award passed by the Industrial Tribunal-cum-Labour Court-I, at Panaji-Goa on 16-11-2010 in reference No. IT/57/90 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*Vasanti H. Parvatkar*, Under Secretary (Labour).

Porvorim, 25th January, 2011.

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IN THE INDUSTRIAL TRIBUNAL-CUM-  
-LABOUR COURT-I  
AT PANAJI

(Before B. P. Deshpande Presiding Officer)

Ref. No. IT/57/90

Shri Rohidas K. Naik,  
Lamkhoh, Siroda,  
Ponda, Goa.

... Workman/Party I

V/s

The Goa Co-op. Marketing &  
Supply Federation Ltd.,  
1, A. Latif Building,  
Municipal Market,  
Panaji, Goa.

... Employer/Party II

Party I/Workman represented by Adv. P. J. Kamat.

Party II/Employer represented by Adv. G. K. Sardesai.

**AWARD**

(Passed on this 16th day of November, 2010)

In exercise of the powers conferred under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, the Government of Goa referred the dispute vide No. 28/58/90-LAB dated 23-11-90, for adjudication of this Tribunal and the schedule reads as under:

“Whether the action of the management of the Goa Co-operative Marketing and Supply Federation Limited, Panaji, Goa in terminating the services of Shri Rohidas K. Naik, Helper, with effect from 11-1-1989 is legal and justified?

If not, to what relief the Workman is entitled?”

2. Notices were issued to the Workman and the Employer and accordingly the statement of claim is filed by the Workman at Exb. 11 disclosing the grounds on which he raised the dispute. The written statement is filed at Exb. 12 by the employer stating therein all the facts which require the employer to take necessary steps to dismiss the employee. The rejoinder is filed at Exb. 14 by the Workman. Issues were framed vide Exb. 15 and thereafter the issues were amended vide Exb. 7. Additional issue was also framed vide Exb. 30 and 33. The preliminary issues were taken up and decided by order dated 7-1-2003 whereby it was observed that the domestic enquiry held against the Workman is fair and impartial however the charges of misconduct levelled against the Workman are not proved and hence enquiry is vitiated. In the same order it was observed that the employer is permitted to lead fresh evidence before the Tribunal to prove the charges of misconduct levelled against the Workman vide chargesheet dated 18-6-88. In accordance with such observations, additional issue No. 2C vide Exb. 33 was framed and thereafter parties led evidence with regard to said issue. In the meantime, the employer filed an amendment application taking ground that the reference itself is bad in view of the provisions of the Maharashtra Co-op Societies Act and to that effect issue No. 2B was framed. Thus, issue Nos. 2A, 2B, 2C, 3 and 4 are now required to be decided on the basis of material placed on record after the order passed by my learned predecessor dated 7-1-2003 holding that the enquiry was fair and proper but the charges of misconduct levelled against Workman were not proved during the domestic enquiry.

3. In short, it is the case of the Workman that he was employed with Party II as a helper vide appointment letter dated 3-6-1981 on temporary basis and posted at Margao Sahakar Bhandar. He worked continuously for seven years without any adverse remark however somewhere from June, 1987 when the Manager by name Sawant joined Margao Sahakar Bhandar he started building a false case of habitual absence against the Workman and thereby issued memos treating the Workman as absent. The intimations, medical certificate forwarded by the Workman to justify his absence were destroyed. Thereafter, chargesheet was issued dated 18-6-88 regarding alleged unauthorized absence on three occasions. The enquiry was conducted without giving proper opportunity and enquiry officer had gone beyond the terms of the chargesheet and his observations

and findings were not supported by any evidence on record. The show cause notice was issued to the Workman dated 19-11-1988 as to why his services should not be terminated and thereafter order of termination was issued which is dated 11-1-1989. The Workman claimed that he is entitled for reinstatement with full back wages and continuity of service since the termination is illegal and unjustified.

4. The Employer in his written statement has raised preliminary objections by way of amendment claimed therein that Party II is a co-operative society registered under the Maharashtra Societies Act and therefore reference made by the Government regarding termination of service, comes within Section 91 of the said Act and therefore this Tribunal has no jurisdiction to entertain the present reference. Further, the employer has claimed that the Workman was habitual in remaining absent without giving any intimation and therefore he was served with memos, warnings etc. on earlier occasions but there was no improvement and finally a chargesheet was issued and after conducting enquiry Workman was dismissed from service. It was claimed that there is sufficient material to prove the charges levelled against Party I.

5. By way of rejoinder the Workman denied all allegations made in the written statement and claimed that the termination is illegal.

6. After order dated 7-1-2003 vide Exb. 32 was past by my learned predecessor, the matter was posted for evidence with regard to the remaining issues and more specifically regarding the claim of the employer that the misconduct stands proved against the employee. In this respect, the employer examined one Prakash Naik who was working in the head office of Party II. One Vinod Narvekar who was working in Margao was also examined to prove the attendance register. Thereafter, the Workman stepped into the witness box and filed his affidavit which is at Exb. 41, he was cross examined on behalf of Party II. Several documents were placed on record by the employer in order to prove the misconduct.

7. Written arguments are filed by Party I which are dated 3-2-2010 whereas learned counsel for Party II orally argued and then reply was given by learned counsel for Party I.

#### FINDINGS

8. *Issue No. 2B:* The objection was raised by Party II by way of amendment to the written statement claiming therein that the said Party II is

a co-operative society set up under the provisions of Maharashtra Co-operative Societies Act and therefore the reference made by the Government as regards the termination of services of Party I, constitute as dispute within the meaning of Section 91 of the Act and the said Act being the special legislation over ride provisions of Industrial Dispute Act and hence the reference made to this Court under Section 10(1)(d) of the Industrial Dispute Act is not maintainable. In this respect, Party II has placed reliance in the case of *R. C. Tivari v/s M. P. State Co-operative Marketing Federation* 1997 SCC Vol. 5 page 125.

9. Before considering the above decision of the Apex Court, let us examine the provisions of Maharashtra Co-operative Societies Act, 1960 and specifically Section 91 which is in Chapter IX deals with the dispute. A bare perusal of Section 91 of the above Act altogether with the proviso which was amended vide Maharashtra Act, 20/86, makes it very clear that the legislature has excluded definition of dispute arising in Section 91 of the said Act with a dispute as referred in Section 2(k) of the Industrial Disputes Act, 1947. The said proviso to Section 91 of the Maharashtra Co-operative Societies Act clearly provide that an Industrial Dispute as defined in Section 2(k) of the Industrial Disputes Act, 1947 shall not be deemed to be a dispute for the purpose to Section 91 of Maharashtra Co-operative Societies Act. The present reference is dated 23-11-90 and the services of Party I were terminated w.e.f. 11-1-1989. Thus, it is clear that the proviso to Section 91 of Maharashtra Co-operative Societies Act as amended in 1986 was very much in force at the time of present reference and hence so called dispute is not covered under Section 91 of the Maharashtra Co-operative Societies Act. The decisions referred by the Party II in the case of *R. C. Tivari* (cited supra) is regarding the provisions incorporated in Madhya Pradesh State Co-operative Societies Act, 1960 which are not found in the Maharashtra Co-operative Societies Act. Thus, the said decisions of the Apex Court is totally on different aspect and not applicable to the facts and circumstances of the matter in hand. Apart from it the provisions of Section 91 of Maharashtra Co-operative Societies Act makes it very clear that an Industrial Dispute within the provisions of Section 2(k) of Industrial Disputes Act is not covered as a dispute under Section 91 of that Act. Admittedly, the present dispute regarding termination of service of Party I is an Industrial Dispute within the meaning of Section 2(k) of Industrial Disputes Act and hence objection

raised on behalf of Party II regarding reference, is unjustified and therefore I hold issue No. 2B as not prove and answered accordingly.

10. *Issue Nos. 2A, 2C, & 3:* Vide order dated 7-1-2003, my learned predecessor held that the domestic enquiry was fair and impartial but at the same time the charges of misconduct levelled against the Workman were not proved in the enquiry and hence the enquiry proceedings stands vitiated. By the same order, the employer was permitted to lead fresh evidence before this Tribunal to prove the charges of misconduct levelled against the Workman as per chargesheet dated 18-6-88. In this regard, Party II examined one Prakash Naik and Vinod Narvekar and thereafter Party I stepped into the witness box and filed his affidavit at Exb. 41. Various documents were placed on record to prove the charges levelled against the Workman.

11. The chargesheet dated 18-6-88 speaks about the specific charges levelled against Party I wherein it has been disclosed that the Workman was appointed as a helper vide order dated 3-6-81 and posted at Margao and subsequently transferred in different branches. The Workman was found absent from 18-4-88 to 30-4-88 in the month of April, from 1-5-88 to 31-5-88 (in the month of May) and then 3-6-88 till the date of chargesheet i.e. 18-6-88. Therefore, it was decided to hold an enquiry for unauthorisedly remaining absent. In order to prove these aspects, the witness by name Prakash Naik deposed that he was working with Party II and presently he is working at the head office at Panaji. He then deposed that Party I was appointed as helper and was working at Margao. Somewhere in the year 1988 he was transferred to Panaji head office and he has produced the muster roll with regard to the months of April, May and June, 1988 at Exb. 4 colly wherein absenteeism of Party I is recorded as disclosed in the chargesheet. He then deposed that such absenteeism was unauthorized and therefore the action was taken against Party I. He has also produced the earlier correspondence in the form of warning letter issued to the Party II from time to time recording remaining absent on various occasions. These documents are at Exb. 7 to Exb. 24. He then deposed that the charge-sheet was issued to the Party I and thereafter he submitted his reply vide Exb. 26 dated 7-7-1988 wherein he claimed that he was sick and requested to avoid further enquiry proceedings. The perusal of this reply at Exb. 26 show that Party I did not dispute about the charges levelled against him for remaining absent unauthorisedly from 18-4-88. However, he

has attached one medical certificate from Dr. Subhash J. Prabhu Dessai which is dated 1-7-88 and it is disclosed in the certificate that Party I was suffering from anxiety, depression and was under treatment from 3-6-88 to 30-6-88. The certificate further show that Party I is fit to resume duty from 1-7-88. Except this the certificate which refers to treatment from 3-6-88 to 30-6-88, there is absolutely no material produce on record to justify the absence of Party I from 18-4-88 towards 3-6-88. It is admitted fact that no application for leave was filed by Party I for leave nor the said leave was regularized. A suggestion was given to Shri Prakash Naik that an intimation was given to the office regarding absence of Party I from 18-4-88 which he has denied. Similarly, the statement of witness that Party I was granted 28 days leave without pay in June, 1988 will not in any way disprove the aspect of unauthorized leave on the part of Party I since it is necessary for Party II to keep the record as to whether such leave is sanctioned or not. It is necessary for the Workman to apply for leave and only on sanctioning such leave to avail it. In case of leave on medical ground, the proper certificate alongwith the application has to be forwarded to the employer within the stipulated period and it is the duty of the employee to complete the said formalities. In the present matter except one medical certificate attached to the reply Exb. 26, no other document is placed on record by Party I to justify his absence from 18-4-88. The reply at Exb. 26 to the chargesheet dated 18-6-88 no way denied the aspect as claimed in the chargesheet. Thus, it is clear that the Workman has admitted the charges levelled against him regarding his unauthorized absence from duty from April, 18th till 3-6-88.

12. The witness No. 2, Vinod Narvekar also deposed that Party I remained absent for the above said period and at that time the witness was working at Panaji. Party I in his affidavit at Exb. 41 stated in para 8 that he was transferred from Margao to Panaji and he reported at Panaji head office on 12-4-88. Subsequently, he fell sick on 18-4-88 and he forwarded sick note to Party II requesting to treat his absence as leave without pay after adjusting leave to his credit. He claimed that Party II adjusted his absence from 18-4-88 till 30-5-88 against leave to his credit and treated his absence from 3-6-88 to 30-6-88 as leave without pay. Therefore, as per say of Party I, he justified his absence from 18-4-88 and Party II has sanctioned the leave for the said period. He denied the suggestion that he was not sick from 18-4-88 and he did not forward sick note with a request to

forward his leave. He also denied his suggestion that Party II did not adjust his absence from 18-4-88 till 30-5-88 against his leave to his credit and further treated his leave without pay. He also denied suggestion that he was habitual in remaining absent and warning and memos were issued on earlier occasions.

13. From the above record it is clear that Party I remained absent from 18-4-88 continuously and he failed to produce any material on record to show that he intimated office regarding his absence from duty. Only showing some irregularities on the muster roll will not justify the absence of Party I as it is the boundant duty of the Workman to informing the employer about remaining absent and the reason for doing so.

14. The chargesheet shows that the Workman has violated the provisions of the service rules by not intimating the employer about his remaining absent or prior sanctioning/permission which amounts to misconduct under Rule 20 (Z) (para 7) of the sub-rules of the Goa Co-operative Market and Supply Federation Limited.

15. Reply to the said chargesheet submitted by the Workman produced at Exb. 26 is totally silent about the charges levelled against him and he only produced the medical certificate with regard to his illness from 3-6-88 upto 30-6-88 but not for prior period from 18-4-88. There is absolutely no material to show that the Workman has applied for any type of leave with regard to his absence from 18-4-88 onwards. Only making the statement that he has forwarded a note for leave, cannot be accepted as gospel truth and this contention of the Workman is considered as an afterthought since no such plea was taken in the reply to the chargesheet or any time subsequently. The documents produced by the management from Exb. 7 onwards clearly show that on various occasions Party I remained absent unauthorisedly and therefore he was issued memos and warnings from time to time. This attitude of the Workman further show that he is neglecting the work and he is habitual in doing so from time to time.

16. In the case of **Pandurang Vithal Kevne v/s BSNL 2010, 1 CLR 170**, the Hon'ble Bombay High Court has disclosed the aspect of unauthorized absence and held that when the employee is in the habit of remaining unauthorisedly absent, it means to commit misconduct and shows lack of interest for work. Under such circumstances it was also held by the Hon'ble Bombay High Court that such unauthorized absence deserves the punishment of dismissal. It is no doubt proved that in

that case the Workman remained absent continuously for many days/months and even after joining the duty, he again remained absent without any justification. In the present matter though the period of remaining absent is for about two and half months, it is clear that the Workman is habitual in remaining absent that to without any justification and therefore it clearly shows irresponsibility and lack of interest in work. Thus, the employer has sufficiently established the charges levelled against the Workman levelled in the chargesheet dated 18-6-88 and has produced sufficient evidence to show that the Workman was habitual in remaining absent without prior sanction. Therefore, I hold issue Nos. 2C, 2A as duly proved and therefore issue No. 3 has to be considered as not proved since the Workman is not entitled for any relief. Hence I pass the following order.

#### ORDER

The action of the management of the Goa Co-operative Marketing and Supply Federation Limited, Panaji, Goa in terminating the services of Shri Rohidas K. Naik, Helper, with effect from 11-1-1989 is legal and justified.

No order as to costs. Inform the Government accordingly.

Sd/-  
(B. P. Deshpande),  
Presiding Officer,  
Industrial Tribunal-  
cum-Labour Court-I.

#### Notification

No. 28/1/2011-LAB

The following award passed by the Lok Adalat, at Panaji-Goa on 13-11-2010 in reference No. IT/72/96 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Vasanti H. Parvatkar, Under Secretary (Labour).

Porvorim, 25th January, 2011.

#### LOK ADALAT

COMPROMISE MEMORANDUM IN CASES  
U/S 10(1)(d) OF INDUSTRIAL DISPUTES  
ACT, 1947



Type of cases:

Case No. 72/96 Pending before Industrial Tribunal-cum-Labour Court-I, Panaji.

Shri Sadat Muzawar ... Applicant/Party I  
V/s

Shri/Smt. K.T.C. Ltd. ... Respondent/Party II

MAY IT PLEASE YOUR HONOUR

Dispute in beief is that the order of dismissal under challenge by reference of Party I.

We, that is Shri Sadat Muzawar, Party I Shri/Smt. M. D. Kadamba Transport Corporation Ltd., Party II alongwith our advocates, authorize panel/bench constituting Lok Adalat, in the above said matter that we have arrived at the compromise to settle the matter as follows:

#### TERMS OF COMPROMISE

The order of termination with effect from 24-5-1996 is converted to an order of discharge from services. No financial claim of any nature shall be demanded we have arrived at the compromise terms willingly before the Lok Adalat held on 13-11-10 at Panaji. No coercion or force is applied. Today, though it is not working day for the Court we request the panel/bench constituting the Lok Adalat to record the compromise today only and the aforesaid matter may be marked as settled accordingly.

Dated this 13th day of November, 2010.

Signature of the Applicant	Signature of the Respondent
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Signature of the Advocate for the Applicant	Signature of the Advocate for the Respondent
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(Signature of the Authorized officer of the  
Government)

#### AWARD

The matter is amicably settled as above before the Lok Adalat held on 13-11-2010 at .....

1. Signature of the Presiding Officer of Panel of Lok Adalat.
2. Signature of the Member of Panel of Lok Adalat.
3. Signature of the Member of Panel of Lok Adalat.

#### Department of Law and Judiciary

Law (Establishment) Division

#### Order

No. 8/34/2005-LD(Estt.)Part/222

- Read: i) Order No. 8/34/2005-LD(Estt.)Part/1471 dated 28-11-2007.  
ii) Order No. 8/34/2005-LD(Estt.)Part/267 dated 19-2-2008.  
iii) Order No. 8/34/2005-LD(Estt.)Part/1245 dated 04-08-2010.

On the recommendation of the Goa Public Service Commission vide their letter No. COM/II/11/58(3)/2004/3064 dated 29-12-2010, approval of the Government is accorded to extent the ad hoc promotion of Smt. Dominica T. F. e Souza, Civil Registrar-cum-Sub-Registrar for a further period of six months w.e.f. 20-08-2010 to 19-02-2011 or till the post is filled on regular basis whichever is earlier.

By order and in the name of the Governor of Goa.

*N. P. Singnapurker*, Under Secretary, Law (Estt.).  
Porvorim, 24th January, 2011.

#### Notification by the High Court of Judicature Appellate Side, Bombay

No. A.3945/G/2011

In exercise of the powers conferred by Section 13 of the Code of Criminal Procedure, 1973, the Hon'ble High Court is pleased to approve the proposal of the Selection Committee to appoint within and for the local areas of Pernem and Bicholim Talukas, District Panaji, Shri Shekhar V. Usgaonkar to be Special Judicial Magistrate for a period of one year with effect from date of this notification.

The Hon'ble High Court further confer upon him the powers to record confession, dying declaration, statements of witnesses under Section 164 of the code and holding of identification parades and all the powers of Judicial Magistrate Second Class under the said code in respect of such cases as are punishable with imprisonment for not more than six months or with fine or with both which will be assigned to him by the Chief Judicial Magistrate in consultation with the Principal District and Sessions Judge of Panaji, North Goa.

High Court, Bombay (M. N. Gilani)  
Dated 20th January, 2011. Registrar General

## Department of Personnel

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Order

No. 7/10/2009-PER

Shri Rajeev Verma, IAS (AGMU:92), Secretary (Health), shall look after the charge of Principal Secretary/Revenue Secretary during the leave/training period of Shri B. Vijayan, IAS (AGMU:82), Principal Secretary/Revenue Secretary, in addition to his own duties, with immediate effect and until further orders.

By order and in the name of the Governor of Goa.

*Yetindra M. Maralkar*, Joint Secretary (Personnel).

Porvorim, 6th December, 2010.

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Order

No. 6/9/2009-PER

The Governor of Goa is pleased to post Shri Sandip Jacques, Junior Administrative Grade Officer of Goa Civil Service, awaiting posting, as OSD (Monitoring) in the Office of Chief Minister, with immediate effect till 31-03-2011, in public interest.

Shri Jacques shall continue to draw his salary against the 'Leave & Training Reserve' post, until further orders.

By order and in the name of the Governor of Goa.

*Yetindra M. Maralkar*, Joint Secretary (Personnel).

Porvorim, 14th January, 2011.

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Order

No. 5/6/2003-PER

Shri Agnelo A. Fernandes, Deputy Collector & SDM, Quepem, shall hold charge of the post of Forest Settlement Officer, (HQ), Sanguem in addition to his own duties, thereby relieving Smt. Sandhya Kamat, Deputy Collector & DRO, South Margao of the additional charge with immediate effect and until further orders.

By order and in the name of the Governor of Goa.

*Umeshchandra L. Joshi*, Under Secretary (Personnel-I).

Porvorim, 17th January, 20011.

## Order

No. 7/10/2009-PER

Shri Rajeev Verma, IAS (AGMU: 92), Secretary (Health), shall hold the charge of Secretary (Tourism, Ports and Sports & Youth Affairs), in addition to his own duties, with immediate effect, until further orders.

By order and in the name of the Governor of Goa.

*Yetindra M. Maralkar*, Joint Secretary (Personnel).

Porvorim, 21st January, 2011.

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Order

No. 6/2/2005-PER

Smt. Maria Paula Fernandes, Under Secretary (Health-II), shall function as OSD to Deputy Chairman, State Planning Board, Secretariat, in addition to her own duties, with immediate effect and until further orders.

By order and in the name of the Governor of Goa.

*N. P. Singnapurker*, Under Secretary (Personnel-II)

Porvorim, 27th January, 2011.

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Addendum

No. 6/11/2009-PER

Read: Order No. 6/11/2009-PER dated 04-01-2011.

The following para shall be added to the order dated 04-01-2011, read in preamble:

"The posting of Shri L. S. Pereira, as Chief Officer, Canacona Municipal Council, shall be on deputation and shall be governed by standard terms of deputation as contained in Office Memorandum No. 13/4/74-PER dated 12-02-1999 and as amended".

By order and in the name of the Governor of Goa.

*Umeshchandra L. Joshi*, Under Secretary (Personnel-I).

Porvorim, 5th January, 2011.

## Department of Public Works

Office of the Secretary-PWD

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Notification

No. 24/7/PCE-PWD-EO/2010-11/173

Japan International Co-operation Agency (JICA) project for "Augmentation of Water Supply & Sewerage in the State of Goa" under JICA ODA Loan Project is a reputed and prestigious project for the State with National and International ramifications. Its derailment will attract severe repercussions. In order to monitor the speedy implementation of this prestigious project through team work, the Government has constituted a High Powered Monitoring Committee having following members:.

- |                                  |                       |
|----------------------------------|-----------------------|
| 1. Hon'ble Chief Minister        | ... Chairman.         |
| 2. Hon'ble Minister for PWD      | ... Vice-Chairman.    |
| 3. Chief Secretary               | ... Member.           |
| 4. Secretary (Finance)           | ... Member.           |
| 5. Secretary (WRD)               | ... Member.           |
| 6. Secretary (PWD)               | ... Member.           |
| 7. Principal Chief Engineer, PWD | ... Member Secretary. |
| 8. Chief Engineer (WRD)          | ... Member.           |
| 9. Project Director (PIU)        | ... Member.           |
| 10. Chief Engineer-I (PWD)       | ... Member.           |

The Committee shall meet every 15 days to review the progress made in execution of the project by adhering to various timelines given by the JICA. It will also ensure timely execution of various project components of this scheme and remove bottlenecks.

In the absence of Chairman, Vice-Chairman shall act as Chairman of the Committee.

This Notification is issued with the approval of the Government.

By order and in the name of the Governor of Goa.

Sd/- Secretary-PWD.

Porvorim, 25th January, 2011.

## Department of Revenue

—  
Order

No. 23/50/2007-RD

Whereas, the Government of Goa, vide Notification No. 23/50/2007-RD dated 13-02-2008, issued under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as the "said Act") and published in the Official Gazette, Series II No. 47 dated 21-02-2008, notified that the land specified in the Schedule thereof (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for construction of road from Volvoi to Sateribhat in V. P. Volvoi in Priol Constituency (addl. area) (hereinafter referred to as the "said public purpose");

And whereas, the Government of Goa, considered the report made by the Collector under sub-section (2) of Section 5A of the said Act and on being satisfied that the said land is needed for the said public purpose, vide Notification No. 23/50/2007-RD dated 09-02-2009, issued under Section 6 of the said Act, and published in the Official Gazette, Series II No. 47 dated 19-02-2009, declared that the said land is required for the said public purpose.

Now, therefore, in exercise of the powers conferred by Section 7 of the Land Acquisition Act, 1894 (Act 1 of 1894), the Government of Goa hereby directs the Collector, North Goa District, Panaji-Goa to take the order for acquisition of the said land.

By order and in the name of the Governor of Goa.

*Pandharinath N. Naik*, Under Secretary (Rev-I).

Porvorim, 25th January, 2011.

—  
Order

No. 23/73/2006-RD

Whereas, the Government of Goa, vide Notification No. 23/73/2006-RD dated 28-03-2007, issued under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as the "said Act"), and published in the Official Gazette, Series II No. 3 dated 19-04-2007, notified that the land specified in the Schedule thereof (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for construction of

various road in V. P. Keri, Terekhol in Mandrem Constituency (hereinafter referred to as the "said public purpose");

And whereas, the Government of Goa, considered the report made by the Collector under sub-section (2) of Section 5A of the said Act and on being satisfied that the said land is needed for the said public purpose, vide Notification No. 23/73/2006-RD dated 10-02-2009, issued under Section 6 of the said Act, and published in the Official Gazette, Series II No. 48 dated 26-02-2009, declared that the said land is required for the said public purpose.

Now, therefore, in exercise of the powers conferred by Section 7 of the Land Acquisition Act, 1894 (Act 1 of 1894), the Government of Goa hereby directs the Collector, North Goa District, Panaji-Goa to take the order for acquisition of the said land.

By order and in the name of the Governor of Goa.

*Pandharinath N. Naik*, Under Secretary (Rev-I).

Porvorim, 25th January, 2011.

#### Notification

No. 22/9/2009-RD

Whereas by Government Notification No. 22/9/2009-RD dated 18-01-2010 published on pages 1161 to 1165 of Series II No. 44 of the Official Gazette dated 28-01-2010 and in two newspapers (1) "Navhind Times" dated 21-01-2010 and (2) "Gomantak" dated 21-01-2010, it was notified under Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act") that the land specified in the Schedule appended to the said Notification was likely to be needed for the public purpose viz. Land Acquisition for expansion of Tuem Industrial Estate, Phase-II at Tuem Village of Pernem Taluka.

And whereas, the Government of Goa (hereinafter referred to as "the Government") after considering the report made under sub-section (2) of Section 5-A of the said Act is satisfied that the land specified in the Schedule hereto is needed for the public purpose specified above (hereinafter referred to as "the said land").

Now, therefore, the Government hereby declares under Section 6 of the said Act that the said land is required for the public purpose specified above.

2. The Government also appoints under clause (c) of Section 3 of the said Act, the Special Land Acquisition Officer, Goa-IDC, EDC Complex, Patto Plaza, Panaji, to perform the functions of a Collector, North Goa District, Panaji-Goa, for all proceedings hereinafter to be taken in respect of the said land and directs him under Section 7 of the said Act to take order for the acquisition of the said land.

3. A plan of the said land can be inspected at the office of the said Special Land Acquisition Officer, Goa-IDC, EDC Complex, Patto Plaza, Panaji, till the award is made under Section 11.

#### SCHEDULE

(Description of the said land)

*Taluka:* Pernem *Village:* Tuem

Survey No./ /Sub-Div. No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3
55 part	Government of Goa. (Lease holder) Subha Arjun Naik.	32653
56	Government of Goa. (Lease holder) Tanaji Pandurang Naik.	46525
57 part	Government of Goa. (Lease holder) Chandu Gilu Naik.	26057
58 part	Government of Goa. (Lease holder) Vishnu Krishna Naik.	14445
61	Government of Goa. (Lease holder) Francis Fernandes.	47100
62/1	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Dwarkabai Ganesh Harmalkar.	200
62/2	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Rama Raya Harmalkar.	150
62/3	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Sridhar Gopal Harmalkar.	100



1	2	3	1	2	3
62/4	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Sridhar Gopal Harmalker.	200	62/12	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Shantaram Laxman Harmalker.	125
62/5	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Bikkaji Sagun Harmalker.	175	62/13	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Bikaji Sagun Harmalker.	150
62/6	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Bhagwan Bikhaji Harmalker.	225	62/14	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Bhagvan Bikaji Harmalker.	150
62/7	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Tukaram Bikhaji Harmalker.	150	62/15	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Bhagvan Bikaji Harmalker.	100
62/8	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Dwarki Ganes Harmalker.	150	62/16	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Tukaram Bikaji Harmalker.	75
62/9	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Rama Raya Harmalker.	125	62/17	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Bhagvan Bikaji Harmalker.	75
62/10	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Sridhar Gopal Harmalker.	150	62/18	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Bikaji Sagun Harmalker.	75
62/11	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Sridhar Gopal Harmalker.	100	62/19	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Shantaram Laxman Harmalker.	75

1	2	3	1	2	3
62/20	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Sridhar Gopal Harmalker.	50	62/29	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Tukaram Bikaji Harmalker.	100
62/21	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Rama Raya Harmalker.	50	62/30	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Tukaram Bikaji Harmalker.	150
62/23	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Tukaram Bikaji Harmalker.	50	62/31	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Bhagvan Bikaji Harmalker.	825
62/24	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Bhagvan Bikaji Harmalker.	25	62/32	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Bikaji Sagun Harmalker.	575
62/25	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Bikaji Sagun Harmalker.	75	62/33	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Shantaram Laxman Harmalker.	350
62/26	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Shantaram Krishna Harmalker.	50	62/34	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Sridhar Gopal Harmalker.	475
62/27	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Sridhar Gopal Harmalker.	125	62/35	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Rama Raya Harmalker.	525
62/28	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Rama Raya Harmalker.	2050	62/36	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Dwarki Ganesh Harmalker.	825

1	2	3	1	2	3
62/37	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Tukaram Bikaji Harmalker.	850		6. Nakul Mahadev Naik. 7. Sadu Raghoba Naik. 8. Yeshwant Vasu Naik. 9. Vaman Mahadev Naik. 10. Aapa Shanker Naik. 11. Arjun Sagun Naik. 12. Babu Daji Naik. 13. Mangesh Krishna Dangui.	
62/38	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Bhagvan Bikaji Harmalker.	550	63 part	O: Government of Goa. (Lease holder) 1. Radhabai Phati Naik. 2. Mukund Phati Naik. 3. Yeshwant Phati Naik. 4. Satyavan Phati Naik. 5. Goa, Daman and Diu Industrial Development Corporation, Tuem.	6364
62/39	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Bikaji Sagun Harmalker.	425	66	O: Government of Goa. (Lease holder) 1. Rajaram Raghu Naik. 2. Vasu Raghu Naik.	40850
62/40	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Shantaram Laxman Harmalker.	700	68	O: Government of Goa. (Lease holder) Digamber Savlo Harmalker.	51050
62/41	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Sridhar Gopal Harmalker.	650	71	O: Government of Goa. (Lease holder) Hari Pundalik Harmalker.	52925
62/42	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Rama Raya Harmalker.	1750	73 part	O: Government of Goa. (Lease holder) Ladu Hari Naik.	38102
62/43	O: 1. Uttam Ambaji Naik. 2. Nanu Hari Naik. 3. Arjun Krishna Naik. 4. Sagun Vishnu Naik. 5. Sitaram Vithal Raut. 6. Mukund Babani Naik. T: 1. Dwarki Ganes Harmalker.	625			
62/44	O: 1. Nakul Hari Naik. T: 1. Tukaram Bikaji Harmalker.	700			
62/45	O: 1. Vithoba Saji Naik. 2. Salvo Jairam Naik. 3. Uttam Pandu Naik. 4. Keshav Vithu Naik. 5. Bala Atma Naik.	21887			
			Total: 393058		
			By order and in the name of the Governor of Goa.		
			Pandharinath N. Naik, Under Secretary (Revenue -I).		
			Porvorim, 25th January, 2011.		
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			Notification		
			No. 22/8/2010-RD		
			Whereas by Government Notification No. 22/8/2010-RD dated 27-04-2010 published on pages 125 to 126 of Series II No. 6 of the Official Gazette dated 06-05-2010 and in two newspapers (1) "Navhind Times" dated 30-04-2010 and (2) "Pudhari" dated 30-04-2010, it was notified		

under Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act"), that the land specified in the Schedule appended to the said Notification was likely to be needed for the public purpose viz. Land Acquisition for development of Government Village School Playground at Bastora in Bardez Taluka.

And whereas, the Government of Goa (hereinafter referred to as "the Government") after considering the report made under sub-section (2) of Section 5-A the said Act is satisfied that the land specified in the Schedule hereto is needed for the public purpose specified above (hereinafter referred to as "the said land").

Now, therefore, the Government hereby declares under Section 6 of the said Act that the said land is required for the public purpose specified above.

2. The Government also appoints under clause (c) of Section 3 of the said Act, the Deputy Collector (LA), Collectorate of North Goa District, Panaji, to perform the functions of a Collector, North Goa District, Panaji, for all proceedings hereinafter to be taken in respect of the said land and directs him under Section 7 of the said Act to take order for the acquisition of the said land.

3. A plan of the said land can be inspected at the office of the said Deputy Collector (LA), Collectorate of North Goa District, Panaji, till the award is made under Section 11.

#### SCHEDULE

(Description of the said land)

*Taluka:* Bardez *Village:* Bastora

Survey No./ /Sub-Div. No.	Name of the person believed to be interested	Approximate area in sq. mts.
1	2	3

93/2	O: Anil Kumar Santiranjan Sengupta.	6500
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#### Boundaries :

North: S. No. 93/1.

South: Road.

East : S. No. 93/3, 4, 5.

West : S. No. 99/4.

Total: 6500

By order and in the name of the Governor of Goa.

*Pandharinath N. Naik*, Under Secretary (Revenue-I & II).

Porvorim, 25th January, 2011.

#### Notification

No. 23/30/2009-RD

Whereas by Government Notification No. 23/30/2009-RD dated 14-10-2009 published on No. 31, Series II pages 824 & 825 of the Official Gazette dated 29-10-2009 and in two local newspapers (1) "Navhind Times" dated 23-10-2009 and (2) "Pudhari" dated 24-10-2009, it was notified under Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act"), that the land specified in the Schedule appended to the said Notification was likely to be needed for the public purpose viz. Land Acquisition for construction of bye-pass road from Cundaim Industrial Estate to Marcaim via Tapobhumi and from Cundaim near temple to Mardol in Marcaim Village of Ponda Taluka (addl. area).

And whereas, the Government of Goa (hereinafter referred to as "the Government") after considering the report made under sub-section (2) of Section 5-A the said Act is satisfied that the land specified in the Schedule hereto is needed for the public purpose specified above (hereinafter referred to as "the said land").

Now, therefore, the Government hereby declares under Section 6 of the said Act that the said land is required for the public purpose specified above.

2. The Government also appoints under clause (c) of Section 3 of the said Act, the Deputy Collector & S.D.O., Ponda-Goa, to perform the functions of a Collector, for all proceedings hereinafter to be taken in respect of the said land and directs him under Section 7 of the said Act to take order for the acquisition of the said land.

3. A plan of the said land can be inspected at the office of the said the Deputy Collector & S.D.O., Ponda-Goa, till the award is made under Section 11.

#### SCHEDULE

(Description of the said land)

*Taluka:* Ponda *Village:* Cundaim

Survey No./ /Sub-Div. No.	Names of the persons believed to be interested	Approx. area in sq. mts.
1	2	3

48/10 part H:	1. Indirabai Yeshwant Kamat.	1955
	2. Govt. of Goa, Works Div. XV (N. H.) PWD, Ponda-Goa.	
T:	1. Vishvanth Pandurang Kamat.	



1	2	3
	OR: House Building Land Lord & Vishwanath Pandurang Kamat. Godown owned by Landlord reconstructed this house & residing in about 25. House Sawlo Shankar Sattarkar. House Indumati Sattarkar.	
52 part H:	1. Fatba Pandurang Kamat.	3300
	T: 1. Narayan Ganu Gawade. <i>Other Rights:-</i> Garden Kulagar and cashew are in possession of the Tenant last 60 years.	
53 part H:	Venktesh Keshew Kamat.	127
57 part H:	1. Comunidade.	4525
	2. Govt. of Goa, Works Div. XV (N. H.) PWD, Ponda-Goa.	
	T: 1. Parampujv Shree Padamanabha Swami. 2. Shishya Sampradaya Trust.	
	OR: 1. Land Parampujv Shri Padmanabha Swami Shishya. 2. Samprodaya Trust is holding the land on afromento basis admeasuring 10011 sq. mts.	
62 part H:	1. Comunidade.	420
63 part H:	1. Comunidade.	360
	T: 1. Tulcidas Raya Naik.	
79 part H:	1. Comunidade.	1690
Total:		12377
<i>Taluka:</i> Ponda		<i>Village:</i> Marcaim
365 part H:	1. Comunidade.	678
<i>Boundaries :</i>		
North : S. No. 48/10, S. No. 57, 78/1, 52.		
South : S. No. 48/10, 57, 63.		
East : S. No. 62, 63, Road, 48/10, 52, 57.		
West : S. No. 51/1, 52, 53, 57, 62, 63, 79.		
North : S. No. 365.		
South : Road.		
East : S. No. 365.		
West : S. No. 365.		
Grand Total:		13055

By order and in the name of the Governor  
of Goa.

*Pandharinath N. Naik*, Under Secretary (Revenue).  
Porvorim, 25th January, 2011.

## Notification

No. 32/2/2007-RD

The Government is pleased to constitute a Co-ordination Committee comprising of following members to discuss about shifting of Khariwada, Fishing Jetty (Vasco) to Katem Baina. The Committee shall also discuss, deliberate on each and every problem existing between M.P.T. and Government of Goa and People at large including Court cases pending in various courts:-

a) Chief Secretary	—	Chairman.
b) Chairman MPT	—	Member.
c) Secretary (Port)	—	Member.
d) Secretary (Transport)	—	Member.
e) Secretary (Fisheries)	—	Member.
f) Secretary (Environment)	—	Member.
g) Secretary (Law)	—	Member.
h) Secretary (PWD)	—	Member.
i) Principal Secretary (Revenue)	—	Member Secretary.

The Committee will Co-opt the members whenever required.

The Committee shall meet once in a month and shall invite the representatives of Fisheries Community, concerned MLA and other Government Departments to understand the issues and submit the report to the Government, time to time.

By order and in the name of the Governor  
of Goa.

*Pandharinath N. Naik*, Under Secretary (Revenue-I).  
Porvorim, 25th January, 2011.



## Department of Sports & Youth Affairs

The Sports Authority of Goa

### Order

No. SAG-03/ADM/RTI/ACT-2005/3678

Read: Order No. SAG-03/ADM/RTI/ACT-2005/657,  
dated 27-2-2008.

In partial modification to this office order read above, Shri Gokuldas T. Verdekar, Jt. Director (Accounts), who has taken over in place of Shri Vinayak A. Naik, Jt. Director (Accounts),

stands nominated as Public Information Officer of this office with immediate effect.

All the other conditions remain un-altered.

V. M. Prabhu Dessai, Executive Director.

Panaji, 28th January, 2011.

◆◆◆

**Department of Women and Child  
Development**

Directorate of Women and Child Development

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**Addendum**

F. No. 8/1/94/2010-WCD/00435/2011

Read: Notification No. 8/1/94/2010-WCD/3539  
dated 4-11-2010.

In the Notification referred above, the following may be added after the State Government Nominee.

**“Central Board’s Nominees**

1. Ms. Clotildes Da Silva e Braganca, Naika Vaddo, Calangute, Bardez-Goa.
2. Dr. Gauri Subhash Shirodkar, ‘Shiv-Shail’, Karai, Siroda, Ponda-Goa.
3. Smt. Pooja Desai Dangui, H. No. 2223, Desai Nagar, Sankhalim, Goa.

The term of the above members shall be co-terminus with the term of the Chairperson, State Board”.

By order and in the name of the Governor of Goa.

*Sanjiv M. Gadkar*, Director and ex officio Joint Secretary (WCD).

Panaji, 27th January, 2011.

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**Corrigendum**

No. 1-229-2003-DWCD/409

Read: No. 1-229-2003-DWCD/1421 dated  
22-12-2010.

In the aforesaid order, the word ‘six’ appeared in the first para, third line may be replaced and read as ‘three’ respectively.

The rest of the contents of above read order shall remain unchanged.

By order and in the name of the Governor of Goa.

*Sanjiv M. Gadkar*, Director and ex officio Joint Secretary (WCD).

Panaji, 27th January, 2011.

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